IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 3356 of 1999

Dated. 21-04-2006

Between

Forest Range Officer, Rudravaram , Kurnool dist.…

….Petitioner

and

Neelapuram Achari and anr. …Respondents.

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO.3336 OF 1999

ORDER:

This Writ Petition is filed seeking Writ of Certiorari to quash the order dated 6-2-1999 in Crl.M.P. No. 274 of 1999 passed by the learned Judicial Magistrate of First Class, Allagadda, Kurnool District.

The Divisional Forest Officer, Nandyal, along with his staff, on information that the first respondent has stored Red Sandal timber, contrary to the A.P. Red Sandal Wood Possession Rules, 1989, framed under A.P. Forest Act, 1967, inspected residential house of the first respondent. During the said inspection, they found Red Sandal timber stored in the house of the first respondent and they also found 'topada' machine with electric motors fixed to it, which was operating without any licence. Under due panchanama, the said wood and machine were seized and

proceedings were initiated before the authorized officer. But, however, on an application filed by the first respondent for interim custody of the 'topada' machine and electric motors, the learned Judicial Magistrate of First class, Allagadda, has passed the impugned order dated 6-2-1999 for release of the said machinery subject to executing bond.

This Court at the stage of admission, has suspended the order dated 6-2-1999. In spite of service of notice on the first respondent, there is no appearance on his behalf.

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Mainly, this Writ Petition is filed on the ground that seizure was not reported before the learned Magistrate and in view of the same; the learned Judicial Magistrate of First Class has erred in passing the order for release of the machinery. The learned Judicial Magistrate of First class is empowered to make an order for release of the seized articles pending trial in such cases, if the property seized is produced before the said Court. In absence of production of seized material before the Court, there is no authority at all for the learned Judicial Magistrate of First Class to order for release of the same. In that view of the matter, the order under challenge is set aside.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 21-04-2006

Msnr.